

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2020-077-00242C

Parcel No. 171/00360-187-401

Merchants White Line Warehousing, Inc.

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on April 14, 2022. Merchants White Line Warehousing, Inc. (Merchants) was represented by Tom Berry, a tax representative with THB Services (formerly Mountain Seed Real Estate Service LLC). Assistant Polk County Attorney Jason Wittgraf represented the Board of Review.

Merchants owns a commercially classified warehouse located at 1420 11th Avenue NE, Altoona, Iowa. Its January 1, 2020, assessment was set at \$6,920,000, allocated as \$660,000 in land value and \$6,260,000 in building value. (Ex. B).

Merchants petitioned the Board of Review claiming the property's assessment was not equitable as compared with the assessments of other like property in the taxing district and that it was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1)(a & b) (2020). (Ex. C). The Board of Review denied the petition. (Ex. B).

Merchants then appealed to PAAB reasserting its over assessment claim.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story warehouse built in 2008. It has 134,400 square-feet of gross building area including a 16,254 square foot auto-repair shop and 3280 square feet of interior finish. The building construction is concrete tilt-up. It also has 12 overhead dock doors and 97,400 square feet of concrete paving. The improvements are listed in normal condition with a 4+00 grade (average quality). The site is 6.009 acres. (Ex. A).

Merchants advertises itself as being “literally at the crossroads of America” in Des Moines, with an ability to provide access to “almost any place in the continental U.S. in just three days by truck, a few more by rail”. (Ex. E). It considers itself “specialists in rail-to-truck and truck-to rail...” The Board of Review submitted an aerial photograph showing the rail spur and track. (Ex. D). Tom Berry testified on behalf of Merchants. He testified that in his opinion the rail service does not increase the value of the subject property.

Merchants submitted a restricted appraisal completed by Chris Jenkins and Christopher Kapler of CBRE, Inc. Valuation and Advisory Services, West Des Moines, Iowa. (Ex. 5). The CBRE appraisal was completed for mortgage underwriting purposes with an effective date of November 2018; more than a year prior to the assessment date

at issue. It values the property at \$5,640,000. (Ex. 5, p. 1). Neither appraiser inspected the subject property but rather relied on a third-party vendor to provide “photos, comments in regards to the condition of the improvements, and general statements.” (Ex. 5, p. 2). Neither appraiser testified at hearing.

The appraisal includes a sales comparison approach and an insurable replacement cost. We forgo any analysis of the insurable replacement cost as it does not include land value nor does it consider depreciation of the improvements. (Ex. 5, pp. 13-14).

Turning to the sales comparison approach, the CBRE appraisal included six sales, which are summarized in the following table. (Ex. 5, pp. 8-12).

Address	Date of Sale	Sale Price	Year Built or Renovation	Gross Building Area (SF)	Adjusted Price/SF
Subject			2008	134,400	
M1 - 1650 21st St SW, Le Mars	Sep-18	\$4,950,000	2000	104,160	\$44.67
M2 - 6046 NE Industry Dr, DM	May-18	\$3,025,000	2015	60,400	\$40.97
M3 - 6096 Industry Dr, DM	Sep-17	\$4,158,180	2016	78,000	\$40.24
M4 - 3600 Army Post Rd, DM	May-17	\$16,200,000	2002	407,938	\$44.99
M5 - 5525 NE 22nd St, DM	Mar-16	\$2,400,000	2004	45,000	\$38.08
M6 - 1700 SE Destination Dr, Grimes	Apr-15	\$2,000,000	2003	44,056	\$42.26

The sales were adjusted for market conditions (time), location, size, age/condition, clear (wall) height, percentage of office finish, and land-to-building ratios.

The time adjustments ranged from 0-7% to reflect a November 2018 value. Merchants did not submit any data to demonstrate whether additional adjustments are required to reflect a January 1, 2020, value.

Jenkins/Kapler reconciled to the average adjusted price per square foot “due to similarities between the subject and comparables.” (Ex. 5, p. 11). Based on this analysis, they concluded an opinion of \$42 per square foot, or \$5,640,000 as of November 2018.

The Board of Review questioned Berry about the verification and terms of Sale M1, and Berry stated it was under contract at the time of the appraisal and therefore not sold. The appraisal also indicates Sale M1 was under contract at the time of the analysis. (Ex. 5, p. 9). The Board of Review noted the assessor records indicate the

property did not transfer until December 2019 for \$4,361,000, which happened to be nearly identical to the assessed value of the building improvements. Moreover, the sale was between a landlord and tenant.

The Board of Review was critical of the appraisal for several reasons. For differences in location, Sale M1 was adjusted upward 5%; Sales M2, M3, M5, and M6 were adjusted downward 5%; and Sale M6 was adjusted downward 10%. The appraisal did not contain any explanation for the location adjustments. The Board of Review was critical of Sale M1 because it is located nearly three-and-one-half hours northwest of the Des Moines market.

The appraisal does not reference the subject property's access to rail service or how that may impact its market value. We also note the rail spur is not listed in the assessment.

The Board of Review also noted the appraisal lacked an adjustment for construction style differences between the properties. The subject is a concrete tilt-up construction. Comparatively, Sales M2, M3, M5, and M6 are metal construction. (Ex. 5, Addendum A). The appraisal does not address or adjust for a potential cost differential or market reaction of the construction types. Further, we note the photographs of Sales M2 and M3 suggest the improvements are inferior as they lack any windows and fewer dock doors. Sale M2 is listed as having only three dock doors and one drive-in. (Ex. 5, Addendum Sale 2). Sale M3 has only six loading docks. (Ex. 5, Addendum Sale 3).

The Board of Review asked Berry if he was aware that Sale M4 re-sold in December 2020 for \$31,500,000; or if he was aware that Sale M6 was purchased by the City of Grimes to owner occupy. (Ex. 5, Addendum A). Berry was unconcerned by these transactional details.

Merchants also submitted a list of seventeen industrial sales that it believes support its position the subject is over assessed. (Exs. 7; 8-20). Berry testified a staff member in his office created the document and compiled the listings. He asserts this evidence demonstrates the sales price of other industrial properties that have recently sold. The sales occurred between 2018 and 2020 with sale prices ranging from \$800,000 to \$13,545,000. The sales were not adjusted for any differences between

them and the subject property. Only three of the properties were built after the year 2000; the remaining sales are older and built between 1929 and 1998. The average of the unadjusted sale prices is \$34.29 per square foot. (Ex. 7). Merchants believes the subject property should be valued at \$41 per square foot or \$5,510,400. (Ex. 7).

Polk County Chief Deputy Assessor Bryon Tack testified for the Board of Review. Tack explained the Board of Review was provided an appraisal of the subject property completed by Daniel Dvorak and Clinton Glaser of Iowa Appraisal and Research Corporation, Des Moines, Iowa. (Ex. M). Dvorak/Glaser inspected the subject property in June 2020 and the appraisal was completed to establish the fair market value for estate planning purposes with an effective date of January 2020. (Ex. M, p. 2). The appraisers developed all three approaches to value (sales comparison, cost, and income) and concluded an opinion of value of \$7,900,000.

In the cost approach, the appraisers described the subject site and noted the rail line to the south. (Ex. M, p. 13, 16, 19). Dvorak/Glaser analyzed and adjusted seven vacant land sales located in the Des Moines and surrounding suburban areas. (Ex. M, pp. 23-24). They reconciled the data to a site value of \$3.50 per square foot or \$916,000. (Ex. M, p. 25). Relying on MARSHALL VALUATION SERVICE, a national cost publication, they determined a replacement cost new of \$11,140,600, which included the site improvements, entrepreneurial profit, and soft costs. (Ex. M, pp. 26-27). They then applied 20% physical depreciation and 15% economic obsolescence to arrive at a depreciated value of the improvements of \$7,575,608. (Ex. M, p. 27). Their final opinion of value by the cost approach was \$8,490,000 (rounded). (Ex. M. p. 27).

For the sales comparison approach, Dvorak/Glaser analyzed and adjusted four improved comparable properties, which are summarized in the following table. (Ex. M. pp. 29-31).

Address	Date of Sale	Sale Price	Year Built	Gross Building Area (SF)	Adjusted Price/SF
Subject			2008	134,400	
DG1 - 4651 NW Urbandale Dr, Urbandale	Jul-19	\$6,671,400	2018	80,000	\$67.38
DG2 - 5150 SE Rio Ct, Ankeny	Oct-18	\$7,200,000	2004	111,803	\$60.43
DG3 - 2401 SE Creekview Dr, Ankeny	Oct-18	\$3,700,000	1998	56,620	\$59.23
DG4 - 6096 NE Industry Dr, Ankeny	Sep-17	\$4,158,180	2016	78,000	\$51.50

Based on photographs of the Dvorak/Glaser's sales, we find DG1, DG2, and DG3 to offer the most similar exterior appearances to the subject property. DG4 appears inferior.

All of the sales were adjusted upward between 1-5% for market conditions as of January 2020. All of the sales were superior in location and adjusted downward 5%. Dvorak/Glaser provided explanations for adjustments, as well as the lack of adjustment. For instance, the appraisers identified the subject as having rail access but declined to adjust for this feature noting rail use has been in decline and they were "unaware of any sale premiums do (sic) to having rail access." (Ex. M, p. 30). After adjusting the sales for other differences, the appraisers provided a clear and concise reconciliation of the four sales and concluded a value of \$60 per square foot or \$8,060,000. (Ex. M, p. 29).

Lastly, in the income approach, Dvorak/Glaser considered eight comparable leases located in Des Moines and the surrounding market area. After adjustments, they reconciled to a market rent of \$4.80 per square foot, triple net. (Ex. M, p. 33). They reconstructed an operating statement resulting in a net operating income (NOI) of \$598,381. (Ex. M, pp. 34-35). Because the appraisal was not completed for ad valorem, the NOI included taxes.

Relying in sales extraction, a mortgage equity analysis, and rate surveys, Dvorak/Glaser determined an overall capitalization rate of 7.75%. (Ex. M, pp. 36-37). They concluded a value by the income approach of \$7,720,000. (Ex. M. p. 37).

Dvorak/Glaser gave primary weight to the sales comparison approach and income approaches to value, concluding a final opinion of value, as of January 2020, of \$7,900,000.

The Dvorak/Glaser appraisal was used by the parties to reach an informal agreement for the January 1, 2021 assessment; the parties agreed to a value of \$8,000,000. (Exs. N & O).

Berry was critical of the Dvorak/Glaser appraisal because it was not completed for a federally related transaction. He believes the CBRE appraisal is more reliable despite it being dated.

The Board of Review also submitted five properties it analyzed and adjusted for comparison to the subject property. (Exs. F-K). The following table summarizes these sales.

Address	Date of Sale	Sale Price	Year Built	Gross Building Area (SF)	Adjusted Price/SF
Subject			2008	134,400	
BOR1 - 1900 E 17th St, Des Moines	Aug-18	\$6,000,000	1992	122,400	\$55.11
BOR2 - 810 SE Corporate Wood Dr, Ankeny	Jun-17	\$14,700,000	2015	206,000	\$62.31
BOR3 - 5910 SE Rio Cr, Ankeny	Dec-19	\$17,400,000	2017	200,688	\$72.31
BOR4 - 6096 NE Industry Dr, Ankeny	Sep-17	\$4,158,180	2016	78,000	\$49.98
BOR5 - 1000 SE 19th St, Des Moines	May-18	\$17,800,000	2017	245,520	\$57.09

Similar to the other analyses in the record, the 2017 and 2018 sales were adjusted upward for market conditions. The sales were then adjusted for other factors, such as quality, age, size, and wall height. Tack explained that the analysis attempted to bracket features of the subject property, such as site size and building size – noting it is good appraisal practice to consider properties both inferior and superior to the subject property. Viewing the photographs of Sales BOR1-BOR5, we conclude that of all the sales in the record, these offer the most similar exterior appearance to the subject property. We also note BOR2 and BOR3 have the most dock doors with 22 and 23 respectively and set the upper end of the adjusted price per square foot. (Exs. H & I). BOR1, offers the most similarity to the subject property with between nine and eleven dock doors and the most similar gross building area. (Ex. G).

Tack testified there has “been a lot of appreciation in the warehouse market” in the Des Moines area. This made Sale BOR3 important, as it is the most recent sale available and very near the January 1, 2020 assessment in question. He further testified that the Assessor’s Office sales ratio analysis indicated an average increase in the warehouse market of 35% between 2019 and 2021.

Relying on the median adjusted sale price per square foot of \$57.09, the Board of Review asserts the subject property is not over assessed. The subject’s January 1, 2020 assessment was set at \$51.49 per square foot.

Analysis & Conclusions of Law

Merchants contends the subject property is over assessed as provided under Iowa Code section 441.37(1)(a)(1)(b).

To establish that its property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), Merchants must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted).

The burden of proof is upon the taxpayer, who "must establish a ground for protest by a preponderance of the evidence. *Compiano*, 771 N.W.2d at 396. But when the taxpayer "offers competent evidence that the market value of the property is different than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation." Iowa Code § 441.21(3). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782 (citations omitted).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). In determining market value, "[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at market value." *Id.* Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779 n. 2; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "When sales of other properties are admitted, the market value of the assessed property must be adjusted to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments." *Soifer*, 759 N.W.2d at 783.

If sales cannot readily establish market value, "then the assessor may determine the value of the property using the other uniform and recognized appraisal methods,"

such as income and/or cost. § 441.21(2). “A party cannot move to other-factors valuation unless a showing is made that the market value of the property cannot be readily established through market transactions.” *Wellmark, Inc. v. Polk Cnty. Bd. of Review*, 875 N.W.2d 677, 682 (Iowa 2016). Where PAAB is convinced comparable sales do not exist or cannot readily determine market value, then other factors may be used. § 441.21(2); *Compiano*, 771 N.W.2d at 398 (citing *Soifer*, 759 N.W.2d at 782); *Carlson Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997).

Merchants submitted a CBRE restricted appraisal report that developed a sales comparison approach and an insurable replacement cost. The CBRE appraisal concluded a value of \$5,640,000, as of November 2018. We give the insurable replacement cost analysis no consideration as it does not include land value or consider depreciation of the improvements. However, the CBRE appraisal conforms to the statutory scheme of developing a sales comparison approach, and should shift the statutory burden.

Even so, we note several concerning issues with the appraisal. First, because it is a restricted appraisal it lacks sufficient details to fully understand the analysis and some of the appraiser’s rationale. This concern may have been alleviated if the appraiser(s) had offered testimony in this case. For instance, the CBRE appraisers did not physically inspect the subject property. While not a requirement, we find when the appraiser(s) personally inspect the property there tends to be a higher degree of reliability in their conclusions. Additionally, the subject is a concrete tilt-up construction. Comparatively, the CBRE Sales M2, M3, M5, and M6 are metal construction. The appraisal does not address or adjust for a potential cost differential or market reaction to the construction types.

Second, and more importantly, is the CBRE appraisal’s effective date of November 2018. The sales in the CBRE appraisal occurred between April 2015 and September 2018. Only two sales occurred in 2018. The record indicates all parties believe the warehouse market has been increasing since 2018, as indicated by upward market conditions (time) adjustments in all of the offered analyses.

The Board of Review submitted two valuation analyses to support the assessment.

The first was the Dvorak/Glaser appraisal, provided to the Board of Review by Merchants in an effort to settle the January 1, 2021 assessment. Merchants was now critical of this appraisal because it was completed for estate purposes. PAAB has historically reviewed appraisals completed for intended users and uses other than ad valorem purposes, including appraisals completed for mortgage purchase or refinance purposes. We have long held that the primary concern of valuation evidence is ascertaining the fair market value of property as of the assessment date in question. It is not so much the intended user or use that is of concern to PAAB but rather the value sought to be determined (market) and valuation interest (fee simple) being appraised, coupled with the credibility of the opinion. The credibility of the opinion may rest on many factors such as whether an on-site inspection occurred, the valuation methods developed, verification of data relied upon, the correctness and reasonableness of the methodology employed, and the convincingness of the author's reconciliations. We carefully consider all of the foregoing, while recognizing each case is unique and there is not a one-size-fits-all answer in relation to the evidence and arguments presented.

Here, we find the Dvorak/Glaser appraisal to be the most contemporaneous opinion of value to the January 1, 2020 assessment, its sales have the most similar exterior appeal to the subject property, and the appraisers actually inspected the property. For these reasons, we find the Dvorak/Glaser appraisal's sales approach the most reliable. The Board of Review argues this appraisal is the most reliable evidence in the record not simply because of its date of value, but also because of its thoroughness. The appraisers physically inspected the property and developed and considered all three approaches to value. Recognizing the law prefers the sales comparison approach, which was given significant consideration in the conclusions of this appraisal – the Board of Review argued that the development of all three approaches increases the reliability of the conclusions. We agree developing other approaches lends support to the sales comparison approach to value. We find the

Dvorak/Glaser appraisal is the most persuasive evidence of the subject's fair market value as of the assessment date and supports the assessment.

The Board of Review also submitted a sales comparison analysis conducted by the Assessor's Office. This analysis is also more contemporaneous with the January 1, 2020, assessment and relies on more recent sales than the CBRE appraisal, including the most recent sale in the record that occurred in December 2019. We also find these sales offer similar exterior appeal to the subject property.

Viewing the record as a whole, we find the Board of Review upheld its burden to support the assessment, and the subject property is not over assessed.

Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.


This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2021).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

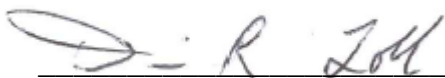
Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

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